

§ 1316.79 Petitions for remission or mitigation of forfeiture.

(a) Any person interested in any property which has been seized, or forfeited either administratively or by court proceedings, may file a petition for remission or mitigation of the forfeiture. Such petition shall be filed in triplicate with the DEA Asset Forfeiture Section or Special Agent-in-Charge of the DEA or FBI, depending upon which agency seized the property, for the judicial district in which the proceeding for forfeiture is brought. It shall be addressed to the Director of the FBI or the Administrator of the DEA, depending upon which agency seized the property, if the property is subject to administrative forfeiture pursuant to § 1316.77, and addressed to the Attorney General if the property is subject to judicial forfeiture pursuant to § 1316.78. The petition must be executed and sworn to by the person alleging interest in the property.

(b) The petition shall include the following: (1) A complete description of the property, including motor and serial numbers, if any, and the date and place of seizure; (2) the petitioner's interest in the property, which shall be supported by bills of sale, contracts, mortgages, or other satisfactory documentary evidence; and, (3) the facts and circumstances, to be established by satisfactory proof, relied upon by the petitioner to justify remission or mitigation.

(c) Where the petition is for restoration of the proceeds of sale, or for value of the property placed in official use, it must be supported by satisfactory proof that the petitioner did not know of the seizure prior to the declaration of condemnation of forfeiture and was in such circumstances as prevented him from knowing of the same.

(Authority: Secs. 613, 618, 46 Stat. 756, 757, as amended (19 U.S.C. 1613, 1618); 28 U.S.C. 509 and 510; 21 U.S.C. 871 and 881(d)); Pub. L. 98-473, Pub. L. 98-573)

[36 FR 7820, Apr. 24, 1971. Redesignated at 38 FR 26609, Sept. 24, 1973, and amended at 48 FR 35088, Aug. 3, 1983; 49 FR 1178, Jan. 10, 1984; 49 FR 50643, Dec. 31, 1984; 56 FR 8686, Mar. 1, 1991]

§ 1316.80 Time for filing petitions.

(a) In order to be considered as seasonably filed, a petition for remission or mitigation of forfeiture should be filed within 30 days of the receipt of the notice of seizure. If a petition for remission or mitigation of forfeiture has not been received within 30 days of the notice of seizure, the property will either be placed in official service or sold as soon as it is forfeited. Once property is placed in official use, or is sold, a petition for remission or mitigation of forfeiture can no longer be accepted.

(b) A petition for restoration of proceeds of sale, or for the value of property placed in official use, must be filed within 90 days of the sale of the property, or within 90 days of the date the property is placed in official use.

(Authority: Secs. 613, 618, 46 Stat. 756, 757, as amended (19 U.S.C. 1613, 1618); Pub. L. 98-473, Pub. L. 98-573)

[36 FR 7820, Apr. 24, 1971. Redesignated at 38 FR 26609, Sept. 24, 1973, and amended at 49 FR 50643, Dec. 31, 1984]

§ 1316.81 Handling of petitions.

Upon receipt of a petition, the custodian or DEA Asset Forfeiture System shall request an appropriate investigation. The petition and the report of investigation shall be forwarded to the Director of the FBI or to the Administrator of the DEA, depending upon which agency seized the property. If the petition involves a case which has been referred to the U.S. Attorney for the institution of court proceedings, the custodian or DEA Asset Forfeiture System shall transmit the petition to the U.S. Attorney for the judicial district in which the proceeding for forfeiture is brought. He shall notify the petitioner of this action.

(Authority: 28 U.S.C. 509 and 510; 21 U.S.C. 871 and 881(d); Pub. L. 98-473, Pub. L. 98-573)

[48 FR 35088, Aug. 3, 1983, as amended at 49 FR 1178, Jan. 10, 1984; 49 FR 50643, Dec. 31, 1984; 56 FR 8686, Mar. 1, 1991; 62 FR 13970, Mar. 24, 1997]

Subpart F—Expedited Forfeiture Proceedings for Certain Property

AUTHORITY: 21 U.S.C. 822, 871, 872, 880, 881, 881-1, 883, 958, 965; 19 U.S.C. 1606, 1607, 1608,